

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 13778, of Gayle G. Van Natta and Florence P. Hohenstein, pursuant to Sub-section 8207.2 of the Zoning Regulations, for special exceptions under Paragraph 3105.48 to permit a subdivision and construction of a 300 bed health-care facility and under Sub-section 7205.3 to permit parking in front of a building and within the courts in an R-5-A District at the premises 2425 25th Street, S.E., (Square 5740, Parcels 220/43 and 220/50).

HEARING DATE: May 19, 1982
DECISION DATE: June 2, 1982

DISPOSITION: The Board GRANTED the application with conditions by a vote of 3-0 (Walter B. Lewis, Connie Fortune and Charles R. Norris to GRANT; William F. McIntosh not voting, not having heard the case; Douglas J. Patton not present, not voting).

FINAL DATE OF ORDER: June 3, 1982

ORDER

In the Order of the Board dated June 3, 1982, the Board stated in Finding of Fact No. 7 that "There is no community based residential facility for five or more persons within the same square and within a radius of 500 feet of the subject property." By letter dated June 11, 1982, Francis E. Johnson, President of the Skyland Park Civic Association and one of the parties in opposition, alleged that the finding was not true. The opposition further stated that "There is a government operated facility no more than a block away from the subject site." "The letter further requested "that this application be held until another review of the facts can be made."

By letter dated June 15, 1982, counsel for the applicant submitted a letter in response to Mr. Johnson's letter of opposition. The applicant's counsel contended that the letter submitted by the opposition does not constitute a proper Motion for Reconsideration. Further, the counsel for the applicant contended that even if the Board considered the letter as a proper Motion, it should be denied on its merits.

Upon review of Mr. Johnson's letter, the applicant's response thereto, the Order as entered on June 3, 1982, and

the testimony and evidence of record, the Board concludes that the letter, as submitted, constitutes a timely Motion for Reconsideration. The letter sets forth an allegation of error on the part of the Board, grounds for the motion and requests relief in the form of "holding" the application. As to the failure to serve the motion, the staff of the Board advised Mr. Johnson to serve the motion on all the parties. Since the applicant had actual notice of the letter, and did in fact submit a response to the letter which the Board considered, there is no prejudice to the applicant in Mr. Johnson's failure to timely serve the motion.

As to the merits of the motion, the sole basis for the request for reconsideration is the opposition's unsubstantiated assertion that there is "a government operated facility no more than one block away from the proposed site." The Board finds that the opposition does not identify the special facility by name or location, establish by any evidence that the referenced facility is, in fact, a community-based residential facility as defined by the Zoning Regulations nor does it establish that the facility is located within the same square or within 500 feet of the proposed facility. The Board's Finding of Fact No. 7 is based on a memorandum from the Zoning Administrator and the report of the Office of Planning and Development, and is confirmed by other testimony at the hearing that described what uses do exist in the vicinity of the subject site. The Board notes that the opposition was present at the public hearing and that the opposition did not contest or rebut that evidence and testimony at the public hearing.


The Board therefore concludes that the Motion fails to raise any issue which the Board did not address in its Final Order. The review of the record clearly establishes that Finding of Fact No. 7 is based on reliable, probative evidence of record that was uncontested and unrebutted. The Board concludes that it has committed no error of fact or law. It is therefore ORDERED that the Motion for Reconsideration is DENIED.

DECISION DATE: June 16, 1982

VOTE: 3-0 (Walter B. Lewis, Connie Fortune, and Charles R. Norris to DENY the Motion; William F. McIntosh and Douglas J. Patton not voting, not having heard the case).

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

ATTESTED BY:



STEVEN E. SHER
Executive Director

FINAL DATE OF ORDER: JUN 18 1982

UNDER SUB-SECTION 8204.3 OF THE ZONING REGULATIONS, "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAI RULES OF PRACTICE AND PROCEDURE BEFORE THE BOARD OF ZONING ADJUSTMENT."